

BOARD OF APPEALS CASE NO. 5054

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BEFORE THE

APPLICANTS: John & Carol LeBrun

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ZONING HEARING EXAMINER

**REQUEST: Variance to permit dwelling
and patio within rear yard setback and to
construct a screened porch;
1202 Dranmore Way, Bel Air**

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OF HARFORD COUNTY

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Hearing Advertised

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Aegis: 6/7/00 & 6/14/00

HEARING DATE: July 19, 2000

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Record: 6/9/00 & 6/16/00

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ZONING HEARING EXAMINER'S DECISION

The Applicants, John and Carol LeBrun, are requesting a variance, pursuant to Section 267-36B, Table V, and Section 267-23C(1)(a)(6) of the Harford County Code, for a dwelling within the required 40 foot rear yard setback (existing 39 feet) and to construct a screened in porch over the existing patio within the required 30 foot rear yard setback (existing 27 feet) in an R2/Urban Residential District.

The subject parcel is located at 1202 Dranmore Way, Bel Air, MD 21014 and is more particularly identified on Tax Map 48, Grid 1D, Parcel 225, Lot 103. The parcel consists of 0.231 acres and is located within the Valewood Estates subdivision. The parcel is zoned R2/Urban Residential and is entirely within the Third Election District.

The Applicant, Carol LeBrun appeared and testified that there is an existing deck and patio on the house. These structures were there when she and her husband purchased the home and they did not know that there were any setback issues with the existing structures. She and her husband intend to construct a screened-in porch on the existing concrete patio. The porch will not be larger than the existing slab and will be used for outdoor living with increased comfort. The structure will be similar to other screened-in porches commonly found in the neighborhood and in other subdivisions within Harford County. Mrs. LeBrun did not believe there was any other practical location for the porch or existing patio for that matter.

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Further, the Applicant stated that the construction of the porch would be architecturally similar to the existing home in materials including siding and roofing materials. The Applicant did not believe any adverse impact to adjoining properties would result if her porch were constructed.

There were no persons who appeared in opposition to the request.

The Department of Planning and Zoning, in its Staff Report dated June 28, 2000, recommended approval of the Applicant=s request and stated,

“The builder located the dwelling approximately 3.5 feet behind the minimum setback causing the dwelling to encroach into the 40 foot rear yard setback by one foot (39 feet existing). The previous owner later constructed a concrete patio A permit was obtained for the patio.”

The Department went on to state that,

“The request is minor in nature and should not adversely impact the adjacent properties or the intent of the Code. The proposed screened porch will not further reduce the existing setbacks. The existing trees and landscaping provide adequate screening to the adjacent properties.”

The Department of Planning and Zoning recommends approval of the Applicants’ request.

CONCLUSION:

Section 267-36B, Table V requires a 40 foot rear yard setback. Additionally, Section 267-23C(1)(a)(6) provides:

“No accessory use or structure, except fences, shall be located within any recorded easement area.”

Variances may be allowed, pursuant to Section 267-11, provided the Board finds:

- (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Code would result in practical difficulty or unreasonable hardship.
- (2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Code or the public interest.

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The Hearing Examiner finds that the subject property is unique in that the builder, during the original construction, built the house within the rear yard setback. This has created the existing problem for the present owner and has been undiscovered until now. The Applicants' request will not further reduce the setbacks from what has existed for some years and two previous owners. Clearly no adverse impacts to adjoining properties will result from construction of a single story screened porch over an existing patio, nor will the purposes of the Code be impaired as a result. The Hearing Examiner agrees with the Department of Planning and Zoning that the request is minor in nature and does not result from some transgression on the part of the Applicant.

The Hearing Examiner recommends approval of the request, subject to the condition that Applicant obtain any and all necessary permits and inspections for the construction.

Date JULY 26, 2000

William F. Casey
Zoning Hearing Examiner